

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

Dated: October 7, 2008.

**Hugo Teufel III,**

*Chief Privacy Officer, Department of Homeland Security.*

[FR Doc. E8-24807 Filed 10-16-08; 8:45 am]

**BILLING CODE 4410-10-P**

**DEPARTMENT OF HOMELAND SECURITY****U.S. Citizenship and Immigration Services****Agency Information Collection Activities: Form I-687, Revision of a Currently Approved Information Collection; Comment Request**

**ACTION:** 60-Day Notice of Information Collection Under Review: Form I-687, Application for Status as Temporary Resident under Section 245A of the Immigration and Nationality Act; OMB Control No. 1615-0090.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until December 16, 2008.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202-272-8352, or via e-mail at [rfs.regs@dhs.gov](mailto:rfs.regs@dhs.gov). When submitting comments by e-mail please add the OMB Control Number 1615-0090 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

- (1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the

validity of the methodology and assumptions used;

- (3) Enhance the quality, utility, and clarity of the information to be collected; and

- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Overview of this information collection:*

- (1) *Type of Information Collection:* Revision of a currently approved information collection.

- (2) *Title of the Form/Collection:* Application for Status as Temporary Resident under Section 245A of the Immigration and Nationality Act.

- (3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I-687. U.S. Citizenship and Immigration Services.

- (4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and Households. The collection of information on Form I-687 is required to verify the applicant's eligibility for temporary status, and if the applicant is deemed eligible, to grant him or her the benefit sought.

- (5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100,000 responses at 1 hour and 10 minutes (1.16 hours) per response.

- (6) *An estimate of the total public burden (in hours) associated with the collection:* 116,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: <http://uscis.gov/graphics/formsfee/forms/prs/index.htm>.

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529, (202) 272-8377.

Dated: October 10, 2008.

**Stephen Tarragon,**

*Deputy Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. E8-24692 Filed 10-16-08; 8:45 am]

**BILLING CODE 9111-97-P**

**DEPARTMENT OF HOMELAND SECURITY****U.S. Customs and Border Protection****Assessment and Mitigation of Claims for Liquidated Damages for Nonpayment or Late Payment of Estimated Duties Under the Automated Commercial Environment (ACE) Periodic Monthly Statement Payment Process Test**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** This document announces guidelines for the assessment of claims for liquidated damages and the mitigation of those claims when participants in the National Customs Automation Program (NCAP) test for the Periodic Monthly Statement Payment Process fail to pay estimated duties in the time period prescribed by law. In addition, CBP may exercise the authority to suspend any bond principal (the importer of record) from participation in the Periodic Monthly Payment Statement test and require that the bond principal pay estimated duties and fees on an entry-by-entry basis. Further, CBP may exercise the authority to require the bond principal to file entry summary documentation with estimated duties and fees attached before merchandise is released from any CBP port.

**DATES:** *Effective Date:* The guidelines are effective on October 17, 2008.

**ADDRESSES:** Comments concerning this Notice should be submitted via e-mail to Jeremy Baskin at [Jeremy.Baskin@dhs.gov](mailto:Jeremy.Baskin@dhs.gov).

**SUPPLEMENTARY INFORMATION:****Background**

On February 4, 2004, Customs and Border Protection (CBP) published a General Notice in the **Federal Register** (69 FR 5362) announcing the National Customs Automation Program (NCAP) test for the Periodic Monthly Payment Statement Process. The test, which is part of CBP's Automated Commercial Environment (ACE), benefits participants by giving them access to operational data through the ACE Secured Data Portal ("ACE Portal"), which provides them the capability to interact electronically with CBP, and by allowing them to deposit estimated duties and fees on a monthly basis based on a Periodic Monthly Statement generated by CBP.

As provided in the February 4, 2004 General Notice announcing the test,

participants in the Periodic Monthly Statement test are required to schedule entries for monthly payment. A Periodic Monthly Payment Statement will list Periodic Daily Statements that have been designated for monthly payment. The Periodic Monthly Statement can be created on a national basis by an ABI filer. If an importer chooses to file the Periodic Monthly Statement on a national basis, it must use its filer code and schedule and pay the monthly statements. The Periodic Monthly Statement will be routed under existing CBP procedures. Brokers will only view/receive information that they have filed on an importer's behalf. ACE will not route a Periodic Monthly Statement to a broker through ABI that lists information filed by another broker.

On August 8, 2005, CBP published a General Notice in the **Federal Register** (70 FR 45736) changing the time period allowed for the deposit of the duties and fees from the 15th calendar day to the 15th working day of the month following the month in which the goods are either entered or released. That change was made in order to comply with the provisions of section 2004 of the Miscellaneous Trade and Technical Corrections Act of 2004, Public Law 108-429, which extended the time of deposit of those estimated duties and fees. On January 20, 2006, CBP published a General Notice in the **Federal Register** clarifying that CBP must receive the settlement for the credit by the 15th working day in order to have the periodic monthly statement marked paid and treated as a timely payment.

On September 22, 2005, CBP published a General Notice in the **Federal Register** (70 FR 55623) establishing that if the bond principal is late with a periodic monthly statement by more than two business days, CBP will notify both the bond principal and the surety on the affected bond that the merchandise will not be released from any CBP port until the entry summary documentation is filed with estimated duties and fees attached. The bond principal will only be released from such a requirement upon full payment of any unpaid estimated duties and fees that have come due under the Periodic Monthly Payment Statement Process test. In addition, this Notice eliminated the requirement that participants in the Periodic Monthly Statement test provide a bond rider covering the periodic payment of estimated duties and fees, but in turn allowed sureties to terminate bonds with three business days' notice rather than 30 days as required by current regulation. The Notice indicated that nonpayment or untimely payment

of estimated duties and fees, however, may result in action by CBP to impose sanctions on the delinquent importer of record.

The failure to pay estimated duties under Periodic Monthly Statement by the 15th working day of the month following the month in which the merchandise was entered or released is a breach of the bond condition found at 19 CFR 113.62(a)(1)(i) that requires that estimated duties be paid in the time period prescribed by law or regulation. The breach of this obligation can result in the assessment of liquidated damages against the bond principal and surety, jointly and severally.

In order for estimated duties and fees to be considered to be paid, the money must be available in the payor's account for transfer to CBP on the date that the statement filer designates for payment (which must be on or before the date that the payment is due) and funds must transfer to CBP (either pulled from the account by CBP via Automated Clearing House (ACH) Debit or pushed to CBP by the payer via ACH Credit) with sufficient information for CBP to be able to apply the money to the appropriate debt. When insufficient information is given and CBP cannot identify the debt to which the payment should be applied, the payment will be held by CBP until sufficient information is received to allow CBP to apply the payment. Delays resulting from lack of sufficient information may result in the payment being considered late.

#### *Description of the Changes*

##### **1. Assessment of Liquidated Damages**

Rather than resort to the sole remedy of requiring a bond principal who has not paid Periodic Monthly Payment Statement estimated duties in a timely fashion to file entry summary documentation with estimated duties and fees attached before its merchandise may be released from any CBP port, CBP has decided to revise the current procedure. Through implementation of these guidelines, CBP is exercising the authority to assess liquidated damages against the bond principal and surety, jointly and severally, when such a failure to pay or untimely payment occurs. This document publishes guidelines for the assessment and mitigation of these claims.

When a Periodic Monthly Statement estimated duty payment is not fully paid on or before the 15th working day after the month in which the entry or release of the merchandise occurred, CBP has the authority to assess liquidated damages against the bond principal and surety, jointly and

severally, for the failure to pay those duties in a timely manner. As a matter of policy, before issuing any claim or claims, CBP will notify the statement filer (either the importer principal and/or his customs broker) electronically or by paper notice on or before the first day of the month following the month that the payment was due that those estimated duties and fees have not been paid. The statement filer will then have two working days from the date of notification to pay the estimated duties and fees or correct the situation. If the estimated duties and fees are not paid or the situation corrected after this two-working day period, then CBP will issue liquidated damages claims to bond principals and sureties, jointly and severally, for non-payment of the estimated duties and fees. If the estimated duties and fees are paid in an untimely manner, then CBP may issue liquidated damages claims or a broker penalty claim in a manner consistent with the language in the NOTE to section 2.a. under the Assessment and Mitigation Guidelines set forth later in this document. Payment of the estimated duties and fees within the two-working day period does not relieve any charged party from incurring a claim for late payment of those estimated duties and fees.

Notwithstanding the provisions of 19 CFR 172.1 and 172.4, any notification of the assessment of claims for liquidated damages for non-payment of estimated duties and fees will be considered to be a demand on surety for the unpaid estimated duties and fees. Bond principals and sureties will share concurrent petitioning time frames for this violation.

For any claim for liquidated damages assessed for untimely payment of estimated duties and fees (as opposed to non-payment of estimated duties and fees), the petitioning process as provided by current regulation will be in effect.

##### **2. Consequences of Non-Payment of Estimated Duties and Fees; Suspension From the Test**

Notwithstanding any other General Notice provision relating to removal of a party from participation in the ACE test, if estimated duties and fees due under the Periodic Monthly Payment Statement test are unpaid and a claim for liquidated damages for non-payment of estimated duties and fees is assessed, CBP may deny the bond principal the privilege of paying estimated duties and fees via the Periodic Monthly Payment Statement process. CBP will have the discretion to either require the bond principal to pay estimated duties and

fees on an entry-by-entry basis or require the bond principal to file entry summary documentation with estimated duties and fees attached before its merchandise may be released from any CBP port. Any bond principal that is denied the privilege of paying estimated duties and fees via the Periodic Monthly Payment Statement process will be so denied for a minimum of three months. If during that three-month period the bond principal establishes a record of timely payment of estimated duties and fees on an entry-by-entry basis, it may petition CBP to participate again in the periodic monthly statement test. CBP will notify the surety of any bond principals removed or reinstated to the periodic monthly statement test.

Any Customs broker who is responsible for repeated incidents of late or non-payment of estimated duties under the Periodic Monthly Payment Statement test may be subject to penalties for violation of the provisions of 19 U.S.C 1641. In the most serious cases of repeat non-compliance, license revocation or suspension actions may be brought.

### Assessment and Mitigation Guidelines

#### 1. Periodic Monthly Statement Failure To Pay Estimated Duties

##### a. Assessment

When duties and fees due under a periodic monthly statement payment are not paid, liquidated damages in an amount equal to two times the unpaid estimated duties and fees or \$1,000 (whichever is greater) may be assessed for violation of 19 U.S.C 1505, 19 CFR 113.62(a)(1)(i), and 19 CFR 113.62(l)(4). No claim for liquidated damages can be issued for an amount in excess of the bond obligated to guarantee payment of these estimated duties and fees. CBP will provide notification of claims for liquidated damages to the bond principal and surety.

**Note:** The importer/bond principal is responsible for payment of estimated duties and fees and the bond amount does not limit his liability for payment of those duties and fees.

##### b. Petition for Relief

A petition for relief may be filed in accordance with the provisions of 19 CFR 172.2 and 172.3, except that the time period to submit the petition when estimated duties have not been paid shall be 10 days from the date of notification.

##### c. Mitigation of Claim

Unless a petition for relief shows that the duties and fees were not owed or that the duties and fees were paid, there

will be no relief afforded from a claim for liquidated damages for failure to pay estimated duties and fees due under the Periodic Monthly Statement until the estimated duties and fees owed are paid. Once estimated duties and fees are paid, CBP will re-issue liquidated damages as a claim for untimely payment of estimated duties and fees in accordance with paragraph 2 below. Failure to pay rightfully owed estimated duties and fees will result in removal of the bond principal from the Periodic Monthly Statement test and may result in the requirement that the bond principal file entry summary documentation with estimated duties and fees attached before its merchandise may be released from any CBP port.

#### 2. Periodic Monthly Statement Untimely Payment of Estimated Duties and Fees

##### a. Assessment

When duties and fees due under a periodic monthly statement payment are paid in an untimely manner, liquidated damages in an amount equal to two times the unpaid estimated duties and fees or \$1,000 (whichever is greater) may be assessed for violation of 19 U.S.C. 1505, 19 CFR 113.62(a)(1)(i), and 19 CFR 113.62(l)(4). No claim can be issued for an amount in excess of the bond obligated to guarantee payment of these estimated duties and fees. Notification of the claim by CBP will be provided to the bond principal and surety. An Option 1 mitigation may be offered on the face of the notification of the claim, with Option 1 amount being calculated in accordance with these guidelines.

**Note:** When estimated duties and fees are paid untimely but prior to the expiration of the two-working day period afforded to ensure that appropriate monies are paid, in lieu of liquidated damages, CBP may issue a \$30,000 broker penalty against a broker for failing to exercise responsible supervision and control over the customs business it conducts in violation of the provisions of 19 U.S.C. 1641(d)(1)(c) and 19 U.S.C. 1641(b)(4). If such a claim is issued, an Option 1 amount consistent with the provisions of section 2.c. may be authorized.

##### b. Petition for Relief

A petition for relief may be filed in accordance with the provisions of 19 CFR 172.2 and 172.3. In lieu of filing a petition for relief, an Option 1 amount, described below, may be paid in settlement of any claim resulting from the untimely payment of a periodic monthly statement payment.

##### c. Mitigation of Claim

##### i. Option 1 Offer of Payment

An offer of payment of the Option 1 amount in settlement of the claim will be authorized only after payment of estimated duties and fees.

##### ii. Calculation of Option 1 Payment if a Failure To Pay Claim Has Not Been Issued

If a claim for liquidated damages for failure to pay estimated duties under periodic monthly statement has not been issued to the bond principal and surety with regard to the untimely payment, the Option 1 amount will be calculated at one percent (1%) of the untimely paid duties and fees (but not less than \$1,000 nor more than \$4,000) plus an amount equal to interest that would have accumulated had it been calculated at the Internal Revenue Service rate beginning the time the payment was due until it is paid. The amount equal to interest charge will accrue against both the principal and surety from the date the payment was due until the date of payment.

##### iii. Calculation of Option 1 Payment When a Failure To Pay Claim Has Been Issued

When a failure to pay estimated duties under periodic monthly statement has been issued to the bond principal and surety with regard to the particular claim, the Option 1 amount will be calculated at one and one-half percent (1½%) of the untimely paid duties and fees (but not less than \$1,500 nor more than \$6,000) plus an amount equal to interest that would have accumulated had it been calculated at the Internal Revenue Service rate beginning the time the payment was due until it is paid. The amount equal to interest charge will accrue for both the principal and surety from the date the payment was due until the date of payment.

##### iv. Filing a Petition (Option II)

A petition may be filed in accordance with the provisions of 19 CFR part 172. CBP may remit or mitigate any claim to an amount that exceeds the Option 1 amount if the facts and circumstances so warrant.

##### v. Failure To Pay/Customs Brokers

If in the time period prescribed in the notice, a customs broker fails to pay the Option 1 amount or petition for relief in a 1641 assessment described in the NOTE above, liquidated damages claims will be issued against all bond principals and sureties whose bonds were breached.

### 3. Extraordinary Relief

In recognition that as new participants join the test that electronic system malfunctions may occur, CBP is not precluded from considering petitions for relief and granting extraordinary relief when system failure is determined to be the cause of a nonpayment or late payment.

### 4. Enforcement Discretion

CBP always retains the right to exercise enforcement discretion and refrain from issuing a claim for liquidated damages or penalty if circumstances warrant. These situations will be considered on a case-by-case basis.

### 5. Termination of Bonds

Nothing in this Notice changes any procedures or authorities regarding termination of bonds described in the Notice of September 22, 2005 (70 FR 55623).

### 6. Delegation of Authority

For purposes of the test, the authority to assess claims for liquidated damages resides with the Office of Finance, Revenue Division, Indianapolis, Indiana. The authority to mitigate or cancel any claim for liquidated damages arising for failure to pay or the untimely payment of estimated duties and fees under the Periodic Monthly Payment Statement test or to refrain from issuing such a claim shall reside with CBP Headquarters, Office of International Trade. Petitions for relief should be addressed to officials designated on the CF-5955A.

Dated: October 10, 2008.

**Daniel Baldwin,**

*Assistant Commissioner, Office of International Trade.*

[FR Doc. E8-24696 Filed 10-16-08; 8:45 am]

BILLING CODE 9111-14-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5186-N-42]

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

### FOR FURTHER INFORMATION CONTACT:

Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7266, Washington, DC 20410; telephone (202) 708-1234; TTY number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800-927-7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Rita, Division of Property Management, Program Support Center, HHS, room 5B-17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a

suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AGRICULTURE: Ms. Marsha Pruitt, Department of Agriculture, Reporters Building, 300 7th St, SW., Washington, DC 20250; (202) 720-4335; COAST GUARD: Commandant, United States Coast Guard, Attn: Teresa Sheinberg, 2100 Second St, SW., Rm 6109, Washington, DC 20593-0001; (202) 267-6142; GSA: Mr. John Smith, Deputy Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th & F Streets, NW., Washington, DC 20405; (202) 501-0084; INTERIOR: Mr. Michael Wright, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW., MS2603, Washington, DC 20240; (202) 208-5399; NAVY: Mrs. Mary Arndt, Acting Director, Department of the Navy, Real Estate Services, Naval Facilities Engineering Command, Washington Navy Yard,